

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/(954) 797-1101

PREPARED BY: David M. Abramson, Acting Deputy Planning and Zoning Manager

SUBJECT: Quasi Judicial Hearing: Variance Application: V 5-2-07/06-46/Russell Commons/7800 Davie Road Extension/Generally located on the Northwest corner of NW 78th Avenue and Davie Road Extension

AFFECTED DISTRICT: District 2

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: V 5-2-07/06-46/Russell Commons

REPORT IN BRIEF:

The petitioner (Associated Engineers of South Florida, Inc) is requesting a variance from the Land Development Code, § 12-83 Commercial Conservation Standards, B-2 Community Business District, from: the required twenty (20) foot side setback abutting residential zoned properties, to: provide a side setback of 1.15 feet along the western property line. The proposed variance request will allow the proposed alteration and addition to an existing commercial structure built on the site prior to annexation with an existing western side setback of 1.15 feet.

PREVIOUS ACTIONS:

At the October 3, 2007 Town Council meeting, Variance Application (V 5-2-07) was tabled to the November 7, 2007 meeting, to allow time to receive Central Broward Water Control District (CBWCD) approval, this was the petitioner's first request for deferral. **(Motion carried 5-0)**

At the September 5, 2007 Town Council meeting, Variance Application (V 5-2-07) was tabled to the October 3, 2007 meeting, to allow time to receive Central Broward Water Control District (CBWCD) approval, the petitioner was not present. **(Motion carried 4-0, Councilmember Luis was absent)**

CONCURRENCES:

At the August 8, 2007 Planning and Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve Variance Application, V 5-2-07 Russell Commons (**Motion carried 4-0, Mr. Pignato was absent**)

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S):

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Attachment(s): Staff Report

Exhibit “A”

Application: V 5-2-07/06-46/Russell Commons

Original Report Date: 7/28/07
9/21/07

Revision(s): 8/9/07,

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division
Staff Report and Recommendation

Applicant Information

Owner:

Name: Ralph Russell & Melinda Russell

Address: 3850 SW 131st Terrace

City: Davie, Florida 33330

Petitioner:

Name: Associated Engineers of South Florida, Inc.

Address: 5450 Griffin Road

City: Davie, Florida 33314

Phone: (954) 689-7464

Background Information

Date of Notification: August 1, 2007 **Number** **of**
Notifications: 168

Application Request: **FROM:** the required twenty (20) foot side setback abutting residential zoned properties **TO:** provide a side setback of 1.15 feet along the western property line (this condition is existing).

Address: 7800 Davie Road Extension

Location: Generally located on the Northwest corner of NW 78th Avenue

Future Land Use Plan Map: Commercial

Existing Zoning(s): B-2, Community Business District

Proposed Zoning(s): n/a

Existing Use(s): Commercial building

Proposed Use(s): Commercial building

Parcel Size:	1.59 Acres (69,420.50 square feet)
Proposed Density:	n/a

<u>Surrounding Use(s):</u>		<u>Surrounding Land</u>		
		<u>Use</u>	<u>Plan</u>	<u>Map</u>
North:	Residential Development	<u>Designation(s):</u> Residential 5		
DU/Acre				
South:	City of Hollywood	City of Hollywood		
East:	Commercial Development	Commercial		
West:	Commercial Development	Commercial		

<u>Surrounding Zoning(s):</u>	
North:	RM-16, Residential Multifamily
South:	City of Hollywood
East:	B-2, Community Business District
West:	RM-10, Residential Multifamily

Zoning History

Related zoning history:

Records indicate that the existing Future Land Use Plan Map designation and Zoning classification were in place at the time of annexation. *Existing development was also in place at time of annexation.*

Previous requests on same property: n/a

Concurrent Request(s) on same property:

Site Plan Application (SPM 2-6-06), the petitioner, Associated Engineers of South Florida, Inc., requests site plan modification approval for a commercial building.

Applicable Codes and Ordinances

The effective Code of Ordinances governing this project is the Town of Davie Land Development Code.

Land Development Code (Section 12-305), Rezoning, Special Permits, Variances, and Vacations or Abandonment's of Rights-of-Way, the purpose of this division is to guide the processing and granting of rezoning, special permits, variances and vacations or abandonment's of rights-of-way in a manner consistent with the Town of Davie Comprehensive Plan, existing development and in a manner which protects the public health, safety and welfare.

Land Development Code (Section 12-24 (J) B-2, Community Business District: The Community Business (B-2) District is intended to implement the commercial designation of the Town of Davie Comprehensive Plan by providing for a business area to service the shopping and limited services needs of several neighborhoods or the local community. Retail stores are intended to include convenience, fashion and durable goods.

Comprehensive Plan Considerations

Planning Area:

The subject property falls within Planning Area 11. The subject property falls within Planning Area 11. This Planning Area is bound by Stirling Road on the north, Davie Road Extension on the southeast, and University Drive on the west. The area is characterized by multi-family residential development on the south side of Stirling Road, ranging from 8 to 16 dwellings per acre. There is one single family residential subdivision developed at five dwellings per acre.

Broward County Land Use Plan:

The subject site falls within Flexibility Zone 102.

Applicable Goals, Objectives & Policies:

Future Land Use Plan, Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Application Details

The petitioner (Associated Engineers of South Florida, Inc) is requesting a variance from the Land Development Code, § 12-83 Commercial Conservation Standards, B-2 Community Business District, **from:** the required twenty (20) foot side setback abutting residential zoned properties, **to:** provide a side setback of 1.15 feet along the western property line.

The proposed variance request will allow the proposed alteration and addition to an existing commercial structure built on the site prior to annexation with an existing western side setback of 1.15 feet. The petitioner has submitted documentation (see Exhibit 1) indicating the request is in compliance with the variances criteria outlined in §12-309(B)(1) of the Land Development Code.

Staff Analysis

The following information is staff's analysis based on the criteria established in the Town of Davie's, Land Development Code, Section 12-309(B)(1) for variance applications:

- (a) There are special circumstances or conditions applying to the land or building for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district;

The special circumstance applying to this property is the existence of a legal non-conforming commercial building developed prior to annexation with a western side setback of 1.15 feet. This type of condition will only apply to legal non-conforming buildings, like in this case, developed with a similar minimum side setback.

And that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

The petitioner could use the property without the need of a variance, by developing the site without integrating the existing building to the proposed addition. The variance request is to allow an existing commercial building with a western side setback of 1.15 feet be altered and developed as an integral part of a renovated site.

And that alleged hardship is not self-created by any person having an interest in the property.

The special circumstances are being created by the existing non-conforming building. The variance will allow the existing portion to be developed as an integral part of the whole site development.

- (b) The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose;

The existing site was developed prior to annexation with a 1.15 feet side setback. The variance request is necessary in order to allow the alteration and addition to the existing commercial building and make the proposed development consistent with the Land Development Code.

- (c) Granting of the requested variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the August 8, 2007 Planning and Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve Variance Application, V 5-2-07 Russell Commons **(Motion carried 4-0, Mr. Pignato was absent)**

Town Council Action

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Exhibits

1. Petitioner's Justification letter
2. Survey
3. Proposed Site Plan
4. Future Land Use Plan Map

5. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

File Location: P&Z\Development Applications\Applications\V_Variance\V_07\V 5-2-07\ Russell Commons

Exhibit 1 (Petitioner's Justification letter)



ASSOCIATED ENGINEERS OF SOUTH FLORIDA, INC.

PLANNING • DESIGN • STUDIES • INSPECTION SERVICES

5450 GRIFFIN ROAD,

DAVIE, FL. 33314

May 10, 2007

Davie Planning and Zoning Division.
6591 Orange Drive.
Davie, FL 33314

ATTN: David M. Abramson

RE: Russell Commons
Variance Request Justification letter
Our Project No. 04-106

Dear David:

This letter is being written on behalf of the owners of the subject property located at 7800 Davie Road Extension to request a variance to allow the site plan modification and improvement of an existing retail shops center. Which has a legal non-conforming structure at the West end of the site.

The special circumstances or condition that applies to this property, is that the building with a non-conforming side set back is an existing building which was legally constructed in accordance with existing set back regulations at the time of construction.

At the present time the owner is trying to substantially improve the appearance of the building by, changing the elevations of the building enlarging the size of the building and improving the parking areas and landscaping of the site. The portion of the building with the legal non-conforming setback is presently leased out, and the demolition of that portion of the building will cause a severe economic hardship to both the tenant and the owner of the property.

The granting of the variance is necessary to allow the improvements to the building aesthetics, otherwise, Davie staff has informed us that we will not be allowed to do the proposed improvement.

Thanking you in advance for your positive consideration of this request we remain.

Sincerely,

ASSOCIATED ENGINEERS
OF SOUTH FLORIDA, INC.

Gustavo X. Aguirre-President.

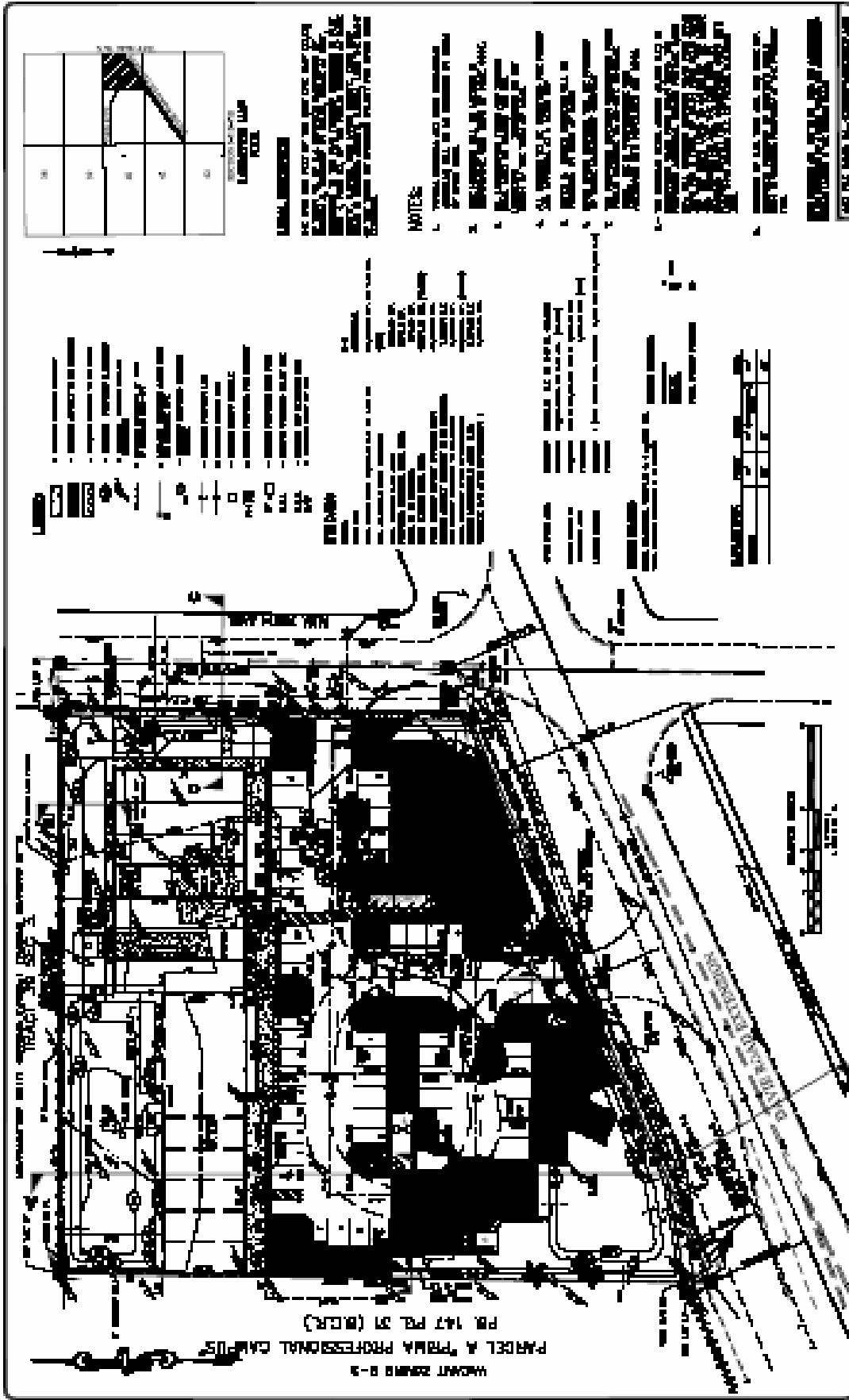
enclosure

cc: Mr. Ralph Russell

04-106TOD-JUSTF.PLANNING_DAVID_05-11-07 gxaletters

Exhibit 2 (Survey)

Exhibit 3 (Proposed Site Plan)



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LANDSCAPE PLAN
PAGE

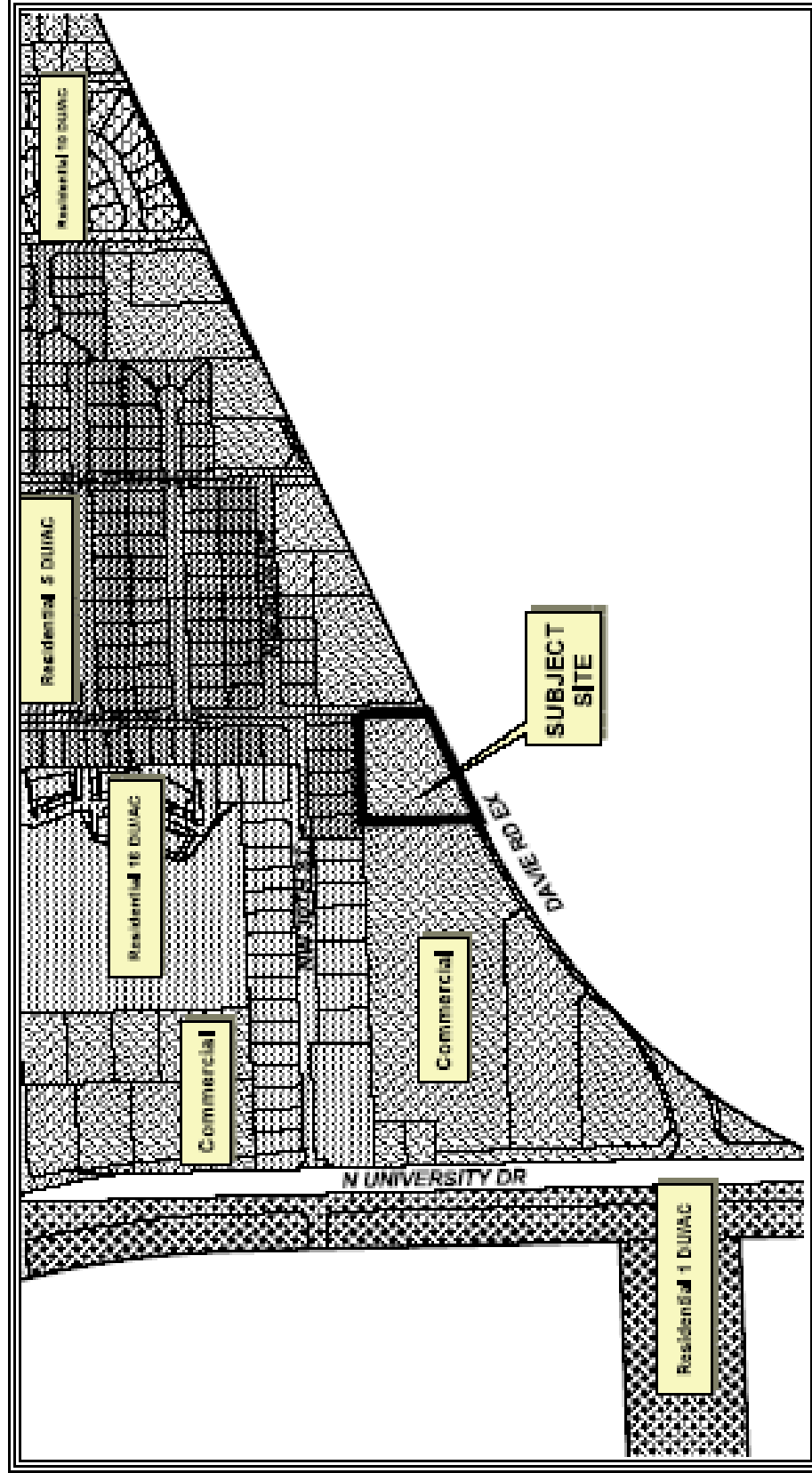
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Exhibit 4 (Future Land Use Plan Map)



SITE PLAN SP 2-6-06 Future Land Use Map

Prepared By: ID
Date Prepared: 02/06

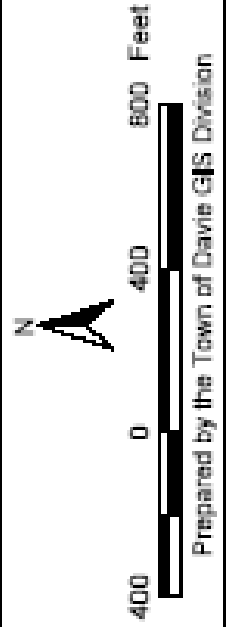


Exhibit 5 (Zoning and Aerial Map)

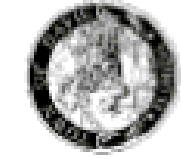


Date Flown:
12/31/04



400 0 400 800 Feet

Prepared by the Town of Davie GIS Division



SITE PLAN **SP 2-6-06** **Zoning and Aerial Map**

Prepared by: JD
Date Prepared: 3/23/08

